

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) JOSHUA FIELDS)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-cv-00986-G
)	
(1) GREAT LAKES INSURANCE SE,)	<i>Removed from the District Court of</i>
)	<i>Kay County, State of</i>
(2) MJ KELLY COMPANY, and)	<i>Oklahoma, Case No. CJ-2021-00037</i>
)	
(3) CAPSTONE ISG,)	
)	
Defendants.)	

**PLAINTIFF’S RESPONSE TO DEFENDANT GREAT LAKES
INSURANCE SE’S COMBINED MOTION IN LIMINE NO. 1**

COMES NOW Plaintiff, Joshua Fields, and in response to Defendant Great Lakes Insurance SE’s Combined Motion in Limine No. 1 states as follows:

I. DEFENDANT’S LITIGATION CONDUCT

Plaintiff does not oppose this motion to the extent it seeks to limit evidence or argument regarding Defendant’s actions and conduct in the litigation of this case to support either the breach of contract claim or violation of Defendant’s duty of good faith and fair dealing. It is understood by Plaintiff that this motion focuses on Defendant’s conduct at the time it filed its first responsive pleading to Plaintiff’s Petition and its conduct going forward to date.

Plaintiff objects to this motion if Defendant seeks limitations to the evidence or argument of Defendant’s investigation and handling of Plaintiff’s claim up until Defendant filed its answer in this lawsuit. Defendant’s action in the investigation and handling of Plaintiff’s claim are very relevant and admissible in support of Plaintiff’s claims for breach of contract and bad faith conduct.

II. TESTIMONY AND OPINIONS OF UNTIMELY DISCLOSED EXPERTS AND PURSUANT TO THE DAUBERT STANDARD

Plaintiff objects to this motion and in support of his opposition incorporates his Response in Opposition to Defendant Great Lakes Insurance SE's Motion to Exclude Expert Testimony of Dereck Cassady [Dkt. #45] .

III. SETTLEMENT DISCUSSION OR NEGOTIATIONS

Plaintiff does not oppose this motion and asks the court that any limitation on the introduction of evidence or argument regarding settlement discussion be announced to all parties at trial.

IV. "GOLDEN RULE" ARGUMENT

Plaintiff does not oppose this motion.

V. EVIDENCE REGARDING DEFENDANT'S ALLEGED LACK OF COMMUNICATIONS WITH PLAINTIFF DURING THE CLAIMS PROCESS

Defendant's actions, or failures to act, in the handling of Plaintiff's claim are relevant to support Plaintiff's allegations in this lawsuit. This claim stems from a fire loss claim that was first reported to Plaintiff's local insurance agent on March 26 2020. Defendant first inspected the damaged building on April 1, 2020. From that inspection, Great Lakes spend the next ***14 months*** apparently investigating whether coverage even existed on Plaintiff's claim. During the investigation of the claim, Defendant did not reasonably communicate with Plaintiff and explain the unreasonable delay. In fact, Defendant waited almost a year from the date of the fire to exam Plaintiff under oath concerning issues that were supposedly important to the coverage determination.

The communication, or lack thereof, between Defendant and Plaintiff is relevant information on the how Defendant investigated and handled Plaintiff's claim and should not be limited as prejudicial.

VI. REFERENCES TO OTHER LAWSUITS INITIATED AGAINST GREAT LAKES OR CLAIMS AGAINST GREAT LAKES

Plaintiff does not oppose this motion.

VII. REFERENCES TO GREAT LAKES AS AN “OUT OF STATE” OR “FOREIGN” COMPANY/INSURER

Plaintiff does not oppose this motion.

VIII. ANY COMMENT REGARDING WITNESSES NOT TESTIFYING OR EVIDENCE NOT PRESENTED BY DEFENDANT AT TRIAL

Plaintiff does not oppose this motion.

IX. ANY EVIDENCE PRESENTED IN REBUTTAL WHICH SHOULD HAVE BEEN PRESENTED IN PLAINTIFF’S CASE IN CHIEF

Plaintiff does not oppose this motion.

X. ANY WITNESS OR EXHIBIT NOT PREVIOUSLY IDENTIFIED BY PLAINTIFF

Plaintiff does not oppose this motion because limitation sought has previously been ordered by this Court in its Scheduling Order and applies to any party that failed to disclose witnesses or exhibits as part of its final witness and exhibit lists.

Respectfully submitted,

MARTIN JEAN & JACKSON

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November 2022, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants, via email:

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s/ Scott R. Jackson

Scott R. Jackson